



## HUMAN RESOURCES OFFICE TECHNICIAN / AGR ADMINISTRATIVE INSTRUCTION

Number: 04-54

14 September 2004

### **Non-Dual Status (NDS) Technicians Employment Opportunities (Non-Emergency)**

#### **I. History:**

a. In 1996 the National Guard began reducing the number of Non-Dual Status (NDS) technicians employed nationwide. Congress gave the National Guard 10 years to reduce the entire NDS workforce to zero. At that time, the California National Guard employed 143 NDS technicians. In 2000 Congress recognized the important contributions of the NDS employees and recognized that some positions were required after mobilization. Congress at that time established the National Guard ceiling of 1950 NDS technicians (1600 Army and 350 Air).

b. After the establishment of the nationwide ceiling, each state was given a "fair share" of the nationwide number. The California National Guard was allocated 79 permanent NDS employment opportunities. In 2001 the California National Guard still employed over 100 NDS technicians; therefore, not every state was able to fill to their "fair share" allocation. As California continued to lose NDS employees through attrition, other states were allowed to fill to their allocation.

c. Not every technician position can be filled by an NDS employee. A determination was made as to which positions in the National Guard had either inherently military duties or a "stay-behind" mission. Based on this model, appropriate NDS position descriptions have been developed ("N" series PDs). Dual Status (DS) position descriptions are not approved for use by NDS employees.

**II. Process:** National Guard Bureau recognized that in certain situations holding a state to a specific allocation number was not the way to manage the workforce and such a rigid stance was not helping states with truly "hard-to-fill" technician positions. On a case-by-case basis, NGB allows the Directorate for Human Resources to request consideration of a NDS employee when recruiting a "hard-to-fill" technician position. Commanders, managers, and supervisors wishing to request consideration of a NDS employment opportunity must submit a written request directly to the Directorate for Human Resources. The Directorate for Human Resources will coordinate with the appropriate Chief of Staff and, in those approved situations, forward the request to National Guard Bureau. The written request must address the following:

a. The NDS position description number, title, payplan, series, and grade. If you don't know if a position can be filled by an NDS employee, please contact the Directorate for Human Resources – Classification Section for determination.

b. The reasonable effort made to fill the DS position with a military member meeting the DS criteria prior to filling the position with an NDS incumbent. A reasonable effort in this situation is defined as advertising at a minimum of twice, of which one of the attempts must be made nationwide.

c. Justification addressing the impact to the organization if the position remains unfilled. The impact to the organization is the major determining factor when there are competing requests for the few available allocations at the state and national levels.

**III. Types of NDS and Appointment Authorities:** NDS target allocations include both permanent NDS and temporary NDS employment statuses. NDS employees may work either a full-time or part-time schedule. The following are NDS appointment authorities:

a. 30-Day Critical Need – Under 5 CFR 213.3102(i)(2), the Directorate for Human Resources may make 30-day appointments. Competitive procedures do not apply for 30-day critical need appointments. Appointments under this authority can be extended for one additional 30 day time period.

b. Student Educational Employment Program – Comprised of two components:

(1) *Student Temporary Employment Program (STEP)* - Appointed non-competitively under Schedule B 213.3202(a) for a period of time not to exceed one year which may be extended in one year increments as long as they meet the definition of a “student.” The student’s academic/career goals do not have to relate to the work being performed (NDS technician position description).

(2) *Student Career Experience Program (SCEP)* - Appointed non-competitively under Schedule B 213.3202(b) and subject to the requirements governing career/career-conditional employment such as background investigation. The student’s academic and career goals must relate to the work being performed. Prior to appointment, a formal agreement is initiated between the California National Guard, school, and student. A SCEP appointment has non-competitive conversion rights into a permanent position for 120 days after completion of a minimum of 640 hours of work (includes compensatory time, does not include annual or sick leave) and the educational goal outlined in the formal agreement.

c. Career/Career Conditional – Appointments using competitive procedures may be made through:

(1) *Delegated Examining Unit (DEU)* – Delegated authority from the Office of Personnel Management (OPM) to prepare vacancy announcements which are open to any US citizen meeting the OPM qualification criteria. Early on in your process contact the Directorate for Human Resources – Staffing if you are considering utilizing a DEU because this process is very labor and detail intensive. It is not unheard of for the complete DEU process to take upwards of 6 months. Prior to using a DEU to publish a vacancy announcement, the selecting official must complete a “crediting plan” and forward it with the request to advertise the vacancy. The “crediting plan” is basically an explanation of the Knowledge, Skills, and Abilities (KSA’s) which is used by the DEU to rate and rank the applicants. Certificate of Eligibles from a DEU will be rated and listed in rank order and selecting officials must follow the “rule of three” when making selections. The California National Guard Directorate for Human Resources is not a DEU.

(2) *Reinstatement Authority* – A NDS person who previously was employed under career or career-conditional appointment. There is no time limit on the reinstatement eligibility of a person who has completed the service requirement for career tenure (3 years). There is a three year time limit (following the date of separation) on the reinstatement eligibility of a person who has not completed the service requirement for career tenure.

(3) *Transfer Authority* – A career or career-conditional individual may be appointed by transfer to a NDS position without break in service of a single workday. A transfer can be a promotion (as long as the time-in-grade requirements have been met), reassignment, or change to lower grade.

d. National Guard Technician Non-Competitive Appointment Authority – Under 5 CFR 315.610 eligible National Guard excepted service technicians may be non-competitively appointed as an NDS employee. They must have been involuntarily separated (other than by removal for cause on charges of misconduct or delinquency) served at least three years as a military technician, and be appointed within 1 year after separating from service as a National Guard Technician.

e. Temporary Emergency Need appointments are covered under TAAI 04-55, 14 September 2004.

**IV. Veterans Preference:** Veterans Employment Opportunities Act of 1998/Veteran Reemployment Act – These competitive service appointment authorities do not apply to NDS Title 32 positions in the National Guard. In accordance with the National Guard Technician Act of 1968, veteran's preference does not apply.

**V. Requirements for NDS positions and employees:**

a. Competitive procedures normally apply to all NDS positions. Exceptions are individually identified in section III of this TAAI.

b. NDS employees must be a US citizen.

c. NDS employees must meet OPM qualification standards.

d. NDS employees must meet OPM time-in-grade requirements for promotion consideration.

e. NDS positions are subject to the DoD Priority Placement Program (PPP) which allows for the immediate non-competitive employment/reemployment of "very well qualified" candidates. Commanders, managers, and supervisors are cautioned that if a match of a "very well qualified" candidate occurs and the candidate accepts the position, the placement action will occur without a vacancy announcement.

CAJS-HR

SUBJECT: Non-Dual Status (NDS) Technicians Employment Opportunities (Non-Emergency)

**VI. Re-employed Annuitants:** This applies to former Federal Employees who have retired and are currently receiving a Federal Civil Service retirement annuity. Section 9902(j), Title 5 USC, gives the agency authority to hire and set salary of newly appointed annuitants, i.e., individuals receiving an annuity from the Civil Service Retirement and Disability Fund, at the appropriate pay rate for the position without a reduction in pay or of the annuity. As a result, the salary of the annuitant is not offset by the amount of the annuity received for the period of employment. Generally, an annuitant may not be employed in the same position held prior to retirement unless the next level manager or supervisor (in most situations the appropriate Chief of Staff) has given approval. Requests to utilize this authority must be requested in writing to the Directorate for Human Resources and are subject to either Criteria 1 or Criteria 2:

Criteria 1

- Positions that are hard-to-fill as evidenced by historically high turnover, a severe shortage of candidates or other significant recruiting difficulty; or

- Positions that are critical to the accomplishment of the organization's mission; or

- To complete a specific project or initiative;

and

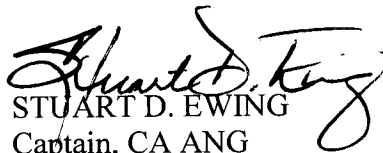
- Individuals who have unique or specialized skills; or

- Unusual qualifications not generally available.

Criteria 2

- For not more than 2087 hours (e.g. one year full-time, or two years part-time) to mentor less experienced employees and/or to provide continuity during critical organizational transitions. Extensions beyond 2087 hours are not authorized.

**VII. Points of Contact:** For additional information, contact CMSgt Michael Hunt at DSN 466-3354, or (916) 854-3354; or TSgt Kenneth Cosgrove at DSN 466-3598, or (916) 854-3598.

  
STUART D. EWING  
Captain, CA ANG  
Deputy Director for Human Resources

DISTRIBUTION:

Air: TA

Army: TA